

CIRCULAR No. 150.

AMENDMENTS OF THE RULES OF PRACTICE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, July 31, 1912.

Registers and Receivers, United States Land Offices.

GENTLEMEN: Your attention is called to the fact that Rules of Practice 8, 10, 14, 82, and 83 have been amended since December 9, 1910.

Said rules, as amended, are as follows:

8. [Amended Mar. 11, 1912.] Unless notice of contest is personally served within 30 days after issuance of such notice and proof thereof made not later than 30 days after such service, or if service by publication is ordered, unless publication is commenced within 10 days after such order and proof of publication is made not later than 20 days after the fourth publication, as specified in rule 10, the contest shall abate: *Provided*, That if the defendant makes answer without questioning the service or the proof of service of said notice, the contest will proceed without further requirement in those particulars.

10. [Amended Mar. 7, 1911.] Service of notice by publication shall be made by publishing notice at least once a week for four successive weeks in some newspaper published in the county wherein the land in contest lies; and if no newspaper be printed in such county, then in a newspaper printed in the county nearest to such land.

Copy of the notice, as published, together with copy of the affidavit of contest, shall be sent by the contestant, within 10 days after the first publication of such notice, by registered mail, directed to the party for service upon whom such publication is being made, at the last address of such party as shown by the records of the land office, and also at the address named in the affidavit for publication, and also at the post office nearest the land.

Copy of the notice, as published, shall be posted in the office of the register, and also in a conspicuous place upon the land involved, such posting to be made within 10 days after the first publication of notice as hereinabove provided.

14. [Amended July 24, 1912.] Upon the failure to serve and file answer as provided by rule 13, the allegations of the contest affidavit will, on motion of contestant made within 20 days after the date the answer is required to be filed and before any answer is filed, be taken as confessed, or in case of failure of contestee to file answer and of contestant to file motion within the time prescribed, the allegation of the contest affidavit may be taken as confessed and judgment entered by the Commissioner of the General Land Office without the award of preference right to contestant. One service of notice, either personally or by publication, as provided by rule 8, must appear in all such cases. At the

end of the period herein prescribed the register and receiver will forthwith forward the case with recommendation thereon to the General Land Office, and notify the parties by registered mail of the action taken.

82. [Amended Nov. 6, 1911.] Oral argument in any case pending before the Secretary of the Interior will be allowed, on motion, in the discretion of the Secretary, at a time to be fixed by him, after notice to the parties. The counsel for each party will be allowed only one-half an hour, unless an extension of time is ordered before the argument begins.

83. [Amended Nov. 16, 1911.] A motion for rehearing of a cause by the Secretary of the Interior, together with all papers used in connection therewith, must be in writing, and must, together with evidence of service thereof on the adverse party, be filed with the Secretary of the Interior within 30 days after service of notice of the decision in said cause.

Said motion must state concisely and specifically the grounds upon which such rehearing is asked, and may be accompanied by written argument in support thereof.

The adverse party will be allowed 15 days after the service of the motion upon him in which to serve and file with the Secretary of the Interior a reply to the motion.

In case no such motion be filed within the period above prescribed, the record will at once be transmitted to the Commissioner of the General Land Office for execution of the judgment of the Secretary. Like action will be taken immediately after the judgment of the Secretary on any motion for rehearing.

No oral argument will be allowed on any such motion, and this rule will be strictly adhered to. If the motion be granted, the Secretary will at once proceed to dispose of the case, or, in his discretion, if the motion, or the reply thereto, has been accompanied by a request for oral argument in the event of its being granted, will set the cause down for oral argument. In any case, however, if the motion be granted, the Secretary may set the cause down for oral argument.

Very respectfully,

FRED DENNETT,
Commissioner.

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